

(2009) 12 JH CK 0064
In the Jharkhand High Court
Case No : B.A. No. 7461 of 2009

Subodh Kumar Gupta @ Subodh Prasad Gupta	APPELLANT
Vs	
The State of Jharkhand (Vigilance)	RESPONDENT

Date of Decision : 21-12-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 109, 120B, 201, 420, 423
Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

Citation : (2010) 58 BLJR 326

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Advocate : Anil Kumar, for the Appellant; A.K. Kashyap, Assistant Public Prosecutor, for the Respondent

Judgement

D.K. Sinha, J.—The petitioner is in custody since 30.09.2009 for the alleged various offences under Sections 420/467/468/469/471/120B/109/201/423/424/477A of the Indian Penal Code as also u/s 13(1)(d) r/w Section 13(2) of the Prevention of Corruption Act, 1988 arising out of Vigilance P.S. Case No. 26 of 2000 (Special Case No. 13 of 2000) pending before the Special Judge (Vigilance), Ranchi.

2. The prosecution case, according to the preliminary enquiry made by the Vigilance Investigation Bureau, was that the team proceeded on the basis of the complaint which related to the opening of Jamabandi in the name of 20 persons with respect to the Gairmajarua Khas land pertaining to Khata No. 140, Plot No. 1114 upon an area of 13.5 acres of Mauza Bargai within Ranchi Town Circle. It was stated that the then Additional Collector Mr. M.P. Ajmera had cancelled the Jamabandi of 103.84 acres of land in Misc. Case No. 90 of 1992-93 and directed for restoration of land and also for proceeding against erring officers but no action could be taken pursuant to the said direction. However, it was gathered in course of preliminary enquiry that the aforesaid land of Khata No. 140, Plot No. 1114 area 113.5 acres was recorded as Gairmajarua Malik in the survey Khatian

whereas in Register-II the name of 20 persons were appearing at Sl. No. 7 one Krishnanchal Grih Nirman Sahkari Samiti for an area of 7.5 acres. The total area occupied by the aforesaid 20 persons was 103.84 acres and that the name of the persons appearing at Sl. No. 9 to 20 were settled with 1 acre of land each. It was further gathered in course of preliminary enquiry that the name of Krishnanchal Grih Nirman Sahkari Samiti (hereinafter called as Samiti for the sake of brevity) was also entered in Register-II for an area of 7.5 acres showing that the said Samiti had purchased the land from one Md. Suleman by three registered sale deeds on different dates in the year 1984 each for 2.5 acres on payment of Rs. 45,000/- for each registration and application was made on behalf of the Samiti for mutation which was ultimately rejected by the then S.D.O. in Mutation Case No. 292 of 1984-85 with the direction that the proceeding be made for opening of Jamabandi in the name of first purchaser and only thereafter the mutation of the Samiti could be considered. It was alleged that after the transfer of the S.D.O. Shri P.N. Rai, the Member and Secretary of the said Committee had further applied for mutation by opening Jamabandi in favour of the Samiti. Though they had mentioned the order of the earlier S.D.O. but Misc. Case No. 16 of 1986-87 was initiated at the Town Circle, Ranchi. The Halka Karamchari after enquiry had submitted report in favour of the Samiti which was concurred by the Circle Inspector, Rajdeo Dubey who also recommended for opening of Jamabandi in favour of Samiti through earlier he had refused for opening of such Jamabandi in favour of the said Samiti. The S.D.O. Sadar, Ranchi had called for a report from the Circle Officer through the petitioner Subodh Kumar Gupta @ Subodh Prasad Gupta who the then was Deputy Collector Land Reforms, Ranchi. The allegation against the petitioner was that he in the note had endorsed that the former S.D.O., Ranchi by the order dated 20.10.1986 had already directed for the opening of Jamabandi therefore" let the record be put up before the S.D.O., Ranchi for orders". It was specifically pointed out that the endorsement approval was deleted and substituted by the word for orders at the instance of the petitioner and the record was placed before the S.D.O. as he wanted that the order should be passed in favour of the Committee. Pursuant to such order, the S.D.O. had passed orders for opening of Jamabandi which indicated the criminal intention of the petitioner.

3. Learned Counsel Mr. Anil Kumar submitted that the signature which was said to be shown in the order-sheet dated 19.07.1990 of mutation record as produced by Sri Ramanand Prasad Singh did not appear to be the signature of the petitioner rather it were forged and fabricated signature as the petitioner had never made any recommendation to the S.D.O. on 19.07.1990. The learned Counsel pointed out that from the order dated 27.07.1988 passed by the then S.D.O. Sadar Ranchi it would appear that the report was called for from the Circle Officer, Ranchi Town Anchal and that said report was to be proceeded through the L.R.D.C., as such there was no authority with the petitioner L.R.D.C. either to pass any order or to make any enquiry as he was required to send the entire fact after putting his note to the S.D.O. who was the competent authority

to take decision in this regard and thereby he had simply forwarded the report to the S.D.O. The petitioner was implicated in the instant case and he came into picture only because of the order dated 27.07.1988. On bare perusal of the signature of the petitioner alleged to be appearing on the order-sheet dated 07.04.1991 which was the admitted signature and such defence cast a clear doubt on the conduct of the officer Sri Ramanand Prasad Singh as the then S.D.O. he was. The petitioner was posted as L.R.D.C., Sadar, Ranchi from 12.08.1989 to 11.07.1993 and was carrying unblemish career throughout, who is in custody since 30.09.2009 suffering from cardiac ailment and was undergoing treatment at C.M.C., Vellore and Sagar Hopital, Jainagar, Bangalore. He was superannuated from his service on 31.01.2004 and now he has been facing incarceration without any guilt of his and therefore his prayer for bail may be considered.

4. Learned A.P.P. Mr. Kashyap opposed the bail and submitted that the complicity of the petitioner was apparent from the material allegation against him as he was instrumental in getting the Jamabandi opened of the Gairmajarua Khas land in favour of Samiti in colourable exercise of his office.

5. Having regard to the facts and circumstances of the case, taking the considered view on the facts and circumstances and the nature of allegation levelled against him as also the submission advanced on behalf of the petitioner that he was not the final authority to pass an order on the petition for mutation except as the record routed through him, without prejudice to the merit of this case, the petitioner Subodh Kumar Gupta @ Subodh Prasad Gupta is directed to be released on executing bail bond of Rs. 20,000/- (Twenty thousand) with two sureties of like amount each to the satisfaction of the Special Judge (Vigilance), Ranchi in Vigilance P.S. Case No. 26 of 2000 (Special Case No. 13 of 2000) with the conditions that the bailers would be the near relatives of the petitioner and that he would appear in the court below regularly.